

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

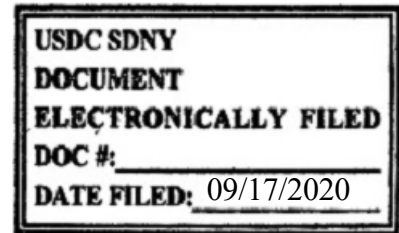
FREDERICK D. PINA,

Plaintiff,

-against-

THE UNITED STATES OF AMERICA,

Defendant.



20-CV-1371 (PAE) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

On September 15, 2020, defendant filed a motion to partially dismiss this action, pursuant to Fed. R. Civ. P. 12(b)(1), for lack of subject matter jurisdiction. (Dkt. No. 14.) The motion has been referred to me for report and recommendation. (Dkt. No. 18.) It is hereby ORDERED:

1. In light of plaintiff's pro se status, plaintiff's deadline to respond to defendant's Rule 12(b)(1) motion is hereby EXTENDED to **October 16, 2020**.

2. Plaintiff is reminded that, until further notice, pro se parties may file pleadings, letters, and other documents with the Court by using any of the following methods:

- a. **Drop off** the document in the drop box located in the lobby of the U.S. Courthouse at 500 Pearl Street, New York, NY, 10007.
- b. **Mail** the documents to the Pro Se Intake Unit in Room 105 in the Thurgood Marshall Courthouse, 40 Foley Square, New York, NY 10007.
- c. **Email** the documents to Temporary_Pro_Se_Filing@nysd.uscourts.gov.
Instructions for filing documents by email may be found on the Court's website at nysd.uscourts.gov/forms/instructions-filing-documents-email.

3. The Pro Se Intake Unit (telephone 212-805-0175) may be of assistance to *pro se* litigants in connection with court procedures.

4. The Court notes that defendants have supported their Rule 12(b)(1) motion with evidence (the Declaration of Kimberly A. Herbst (Herbst Declaration) (Dkt. No. 16) and exhibits

attached thereto). If plaintiff disagrees with any of defendant's factual assertions contained in or supported by the Herbst Declaration, he must respond with admissible evidence of his own. That is, plaintiff may not simply rely upon the allegations in his complaint. Rather, he must submit evidence, such as affidavits and properly authenticated documents, countering the facts asserted by defendant and raising specific facts that support this Court's exercise of jurisdiction over the case. An affidavit is a sworn statement, based on personal knowledge, stating facts that would be admissible in evidence at trial. Plaintiff may submit his own affidavit and/or the affidavits of others, including affidavits that were prepared specifically in response to defendant's partial motion to dismiss. If plaintiff fails to respond to the motion on time, or fails to submit admissible evidence as to factual matters raised by defendant and supported by the Herbst Declaration, the Court may accept the facts set forth therein as true and may on that basis dismiss plaintiff's case in part.

Chambers will mail a copy of this Order to the plaintiff.

Dated: New York, New York
September 17, 2020

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge